

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEBRASKA

IN THE MATTER OF:)	
)	CASE NO. BK05-00667 (S.D. Iowa)
MAY PLUMBING, INC.; JACK MAY;)	
and JUDITH MAY,)	A05-8015
Debtor(s).)	
PLUMBER LOCAL UNION NO. 16)	8:04CV626
HEALTH & WELFARE FUND, et al.,)	
Plaintiffs,)	
vs.)	CH. 7
)	
MAY PLUMBING, INC.; JACK MAY)	
and JUDITH MAY,)	
Defendants.)	

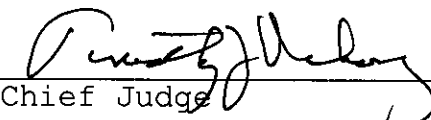
REPORT & RECOMMENDATION

This case was transferred from the district court because a party is in a bankruptcy case. Having reviewed the status reports filed by the parties, I hereby respectfully recommend to the United States District Court for the District of Nebraska that reference of this case be withdrawn and the case transferred to the Southern District of Iowa for further proceedings in connection with the bankruptcy case.

The Clerk of the Bankruptcy Court shall process this recommendation pursuant to the local court rules. The clerk is also directed to attach a copy of each parties' status report (Fils. #3 and #4) to this report and recommendation before transmitting it to the district court.

DATED: March 29, 2005

RESPECTFULLY SUBMITTED:



Chief Judge

Notice given by the court to:

David G. Hicks

Oliver Pollak

John J. Jolley, Jr.

John Schembari

Marcia Washkuhn

United States Trustee

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEBRASKA

IN THE MATTER OF:

MAY PLUMBING, INC.; JACK) Case No. BK05-00667 (S.D. Iowa)
MAY & JUDITH MAY, Debtors) Chapter 7

PLUMBER LOCAL UNION NO.)
16 HEALTH & WELFARE FUND,) Adv. No. A05-8015
et al., Plaintiffs)
) **STATUS REPORT BY DEBTORS**
v.)
)
MAY PLUMBING, INC., JACK)
MAY and JUDITH MAY,)
Defendants.)

COME NOW the Debtors, Jack & Judith May, by and through their undersigned attorneys of record, and pursuant to the Court's Order of February 23rd, hereby submit the following Status Report of the Debtors:

- 1) Jack May and Judith May, husband and wife filed a chapter 7 bankruptcy in the Southern District of Iowa – appropriately venued there because of their residence – on the 10th day of February, 2005. May Plumbing, Inc. is out of business, but is not a debtor in any bankruptcy proceeding.
- 2) Jack & Judith May are represented in their bankruptcy proceeding by David G. Hicks and the law firm of Pollak & Hicks, duly licensed Iowa attorneys. Neither David G. Hicks nor the law firm of Pollak & Hicks represented either Jack or Judith May in the litigation in the United States District Court for the District of Nebraska (Case No. 8:04CV626); nor do they represent the corporate entity in any proceeding.
- 3) Upon filing their Chapter 7 bankruptcy, Debtors filed a Suggestion in Bankruptcy in the litigation pending before the U.S. District Court of Nebraska, which in turn triggered a referral to this Bankruptcy Court and the assignment of the above captioned adversary case. Neither party has filed an adversary proceeding.
- 4) Debtors know of no reason why this United States Bankruptcy Court for

3 ref 3-23-05

the District of Nebraska need be involved, although they have no objections.

- 5) The meeting of creditors, pursuant to 11 U.S.C. Sec. 341, was held in Council Bluffs, IA on March 23, 2005 at 11:00 a.m. There is a small amount of non-exempt property that the Trustee will be claiming. No creditors attended the meeting.
- 6) For reasons unknown to the Debtor, the underlying litigation has apparently proceeded in Lincoln, NE with Magistrate Piester. Perhaps it is because the entity co-defendant is not in any bankruptcy.
- 7) The underlying litigation in the U.S. District Court of Nebraska named the debtors as defendants, but made no allegations against them in the body of the complaint.
- 8) In summary, the Debtors are of the opinion that the litigation against them is stayed, and that there is no need for an Adversary Proceeding to be pending in this Court. The Bankruptcy is venued in the Southern District of Iowa. Eighth Circuit case law is clear that this is a dischargeable debt.
- 9) That is the status as of this 23rd day of March, 2005.

Jack & Judith May, Debtors

By: /s/ David G. Hicks
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Attorneys for Debtors

Certificate of Service

The undersigned hereby certifies that the foregoing Status Report by Defendants was served upon parties in interest by filing the same electronically with the office of the Clerk of the U.S. Bankruptcy Court for the District of Nebraska, utilizing its CM/ECF system, on the 23rd day of March, 2005.

/s/ David G. Hicks

David G. Hicks

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEBRASKA

IN THE MATTER OF:

MAY PLUMBING, INC.; JACK MAY; and
JUDITH MAY,

Debtors.

CASE NO. BK05-00667 (S.D. Iowa)

A05-8015

8:04CV626

PLUMBERS LOCAL UNION NO. 16
HEALTH AND WELFARE FUND;
PLUMBERS LOCAL UNION NO. 16
PENSION FUND; PLUMBERS LOCAL
UNION NO. 16 JOURNEYMEN AND
APPRENTICESHIP TRAINING FUND; AND
PLUMBERS LOCAL UNION NO. 16
VACATION FUND,

Plaintiffs,

v.

MAY PLUMBING, INC. AND JACK MAY
AND JUDITH A. MAY D/B/A MAY
PLUMBING,

Defendants.

CH. 7

PLAINTIFF'S STATUS REPORT

COME NOW Plaintiffs, Plumbers Local Union No. 16 Health Welfare Fund ("Welfare Fund"), Plumbers Local Union No. 16 Pension Fund ("Pension Fund"), Plumbers Local Union No. 16 Journeymen and Apprenticeship Training Fund ("Apprenticeship Fund") and Plumbers Local Union No. 16 Vacation Fund ("Vacation Fund") (collectively the "Funds"), and, pursuant to the Court's order dated February 23, 2005, hereby states that this case should be transferred to

the Southern District of Iowa for further proceedings in connection with the bankruptcy matter that has been filed by Jack Dean May, formerly doing business as May Plumbing Company, and Judith May, and which is identified by Case No. 05-00667-lmj7.

Dated this 25th day of March, 2005.

PLUMBERS LOCAL UNION NO. 16
HEALTH AND WELFARE FUND;
PLUMBERS LOCAL UNION NO. 16
PENSION FUND; PLUMBERS LOCAL
UNION NO. 16 JOURNEYMEN AND
APPRENTICESHIP TRAINING FUND;
AND PLUMBERS LOCAL UNION NO. 16
VACATION FUND, Plaintiffs

By: /s/ John J. Jolley, Jr.

John J. Jolley, Jr. #20726
Marcia A. Washkuhn #21022
John E. Schembari #21596
Kutak Rock LLP
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Omaha, NE 68102-2186
(402) 346-6000

CERTIFICATE OF SERVICE

This certifies the undersigned attorney has caused service of the above document to be made on March 25, 2005, by electronically filing the foregoing with the Clerk of the Court using the CM/ECF system, and by mailing by U.S. Mail, to the last-known address of the following parties in this action:

David G. Hicks
Suite 216
6910 Pacific Street
Omaha, NE 68106

Oliver Pollak
Suite 203
1823 Harney Street
Omaha, NE 68102

By /s/ John J. Jolley, Jr.
John J. Jolley, Jr.